Community Managers

TOPICS OF DISCUSSION

COMMUNITY MANAGER-PURPOSE & BENEFITS

CERTIFICATE- NRS 116A.400

INFORMATIONAL BULLETIN #017

ADMINSTRATIVE FINE FOR ENGAGING IN CERTAIN CONDUCT WITHOUT A CERTIFICATE- NRS 116A.900

DUTIES - NRS 116A.600, NRS 116A.610

MANAGEMENT AGREEMENTS- NRS 116A.620

STANDARDS OF PRACTICE AND PROHIBITED ACTS-NRS 116A.630, NRS 116A.640

COMMUNITY MANAGER: PURPOSE

✓ Communication avenue between Common Interest Community Association and Unit Owners

✓ Aid Executive Board in running the community

✓ Educate the Executive Board and/or Unit Owners

✓ Internal and External Communications

BENEFITS:

- Communication- writing newsletters, communications, social media, websites
- Event Planning- determine times and dates of community events, invites sent to residents
- Relationships- new residents, current residents
- Business-monitoring financials, billing, contracts
- Law- NRS 116 Statutes
- Recruitment of new owners
- Addressing concerns of current residents

- ✓ A person shall not act as a community manager unless the person holds a certificate.
- ✓ The Commission shall by regulation adopt any additional standards of practice for community managers who hold certificates that the Commission deems appropriate and necessary.
- ✓ The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS

✓ If the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the additional standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

The Commission may:

- (a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.
- (b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

The provisions of this section do not apply to:

- (a) A financial institution that is engaging in an activity permitted by law.
- (b) An attorney who is licensed to practice in this State and who is acting in that capacity.
 - (c) A trustee with respect to the property of the trust.
- (d) A receiver with respect to property subject to the receivership.
- (e) A member of an executive board or an officer of an association who is acting solely within the scope of his or her duties as a member of the executive board or an officer of the association.

Common-Interest Community Management GUIDELINES CONCERNING ACTIVITIES AN UNLICENSED EMPLOYEE MAY PERFORM

The following activities would be considered clerical duties which may be performed by an unlicensed employee of a certified manager or board of directors.

Board / Association Meetings:

- Prepare a meeting agenda and disseminate the agenda to fulfill public notice requirements, at the direction of the board or the certified manager
- Attend board and association meetings to take meeting minutes, to be signed by the board secretary and approved by the board of directors
- Prepare and send mailings to board members and/or unit owners concerning association business

Association Office Business:

Compile and distribute resale disclosure information package and Condition of Sale; certification form must be signed by certified manager or appropriate board officer Prepare welcome letters to be signed by certified manager or appropriate board officer; prepare resident information packet Prepare correspondence or reports under direction of certified manager or appropriate board officer; correspondence must be signed by certified manager or appropriate board officer Prepare collection letters; letters must be signed by certified manager or appropriate board officer Purchase office supplies, within limits/restrictions approved by the board of directors Prepare forms pertaining to the registration of an association; forms must be signed by the certified manager, board of directors, or the declarant to certify the information provided is correct Fill out government response forms (Secretary of State; Office of the Ombudsman); form must be signed by certified manager or appropriate board officer Process paperwork for insurance claims; may not act as liaison with insurance company Verify insurance coverage of contractors Maintain files, such as insurance, owner rosters Prepare and maintain inventory of common elements for association Perform routine inspections of common elements Prepare list of delinquent owner accounts for review by certified manager to trustee company after approval by board Compile submittals for review by Architectural Review Committee

Common-Interest Community Management GUIDELINES CONCERNING ACTIVITIES AN UNLICENSED EMPLOYEE MAY PERFORM

The following activities would be considered clerical duties which may be performed by an unlicensed employee of a certified manager or board of directors.

Budget/Financial:

- Review invoices, match/compile documents for invoices; no approval authority
- Assist with budget preparation
- Assist with preparation of annual financial statements and disseminate statements
- Coordinate arrangements for a financial audit or financial review
- Coordinate bidding processes

UNDER NO CIRCUMSTANCES SHOULD ANYONE OTHER THAN A CERTIFIED MANAGER OR APPROPRIATE BOARD OFFICER SIGN A CONTRACT





The Commission may impose an administrative fine against any person who knowingly:

- (a) Engages or offers to engage in any activity for which a registration or <u>certificate is required</u> pursuant to this chapter or <u>chapter 116</u> or <u>116B</u> of NRS, or any regulation adopted pursuant thereto, if the person has not registered or does not hold the required certificate or has not been given the required authorization; or
- (b) Assists or offers to assist another person to commit a violation

If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$10,000, whichever amount is greater.

In determining the appropriate amount of the administrative fine, the Commission shall consider:

- (a) The severity of the violation and the degree of any harm that the violation caused to other persons;
- (b) The nature and amount of any gain or economic benefit that the person derived from the violation;
 - (c) The person's history or record of other violations; and
- (d) Any other facts or circumstances that the Commission deems to be relevant.

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Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

The person is entitled to judicial review of the decision of the Commission

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DUTIES NRS 116A.600

Requirement for community manager or reserve study specialist to notify Division in writing of certain convictions.

- 1. A community manager who holds a certificate and a reserve study specialist who is registered shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any offense involving moral turpitude.
- 2. A community manager or reserve study specialist shall submit the notification required by subsection 1 not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere.

DUTIES NRS 116A.610

NRS 116A.610 Requirement for community manager to disclose certain information to prospective client before entering into management agreement. Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which the community manager knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect the community manager's ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:

- 1. Whether the community manager, or any member of his or her organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.
- 2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the client.
- 3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the client.

Any management agreement **must**:

- (a) Be in writing and signed by all parties;
- (b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;
 - (c) State the term of the management agreement;
- (d) State the basic consideration for the services to be provided and the payment schedule;
- (e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:
 - (1) The costs for any new client or start-up costs;
- (2) The fees for special or non-routine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;
 - (3) Reimbursable expenses;
- (4) The fees for the sale or resale of a unit or for setting up the account of a new member; and
- (5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

Any management agreement **must**:

- (f) State the identity and the legal status of the contracting parties;
- (g) State any limitations on the liability of each contracting party;
- (h) Include a statement of the scope of work of the community manager;
- (i) State the spending limits of the community manager;
- (j) Include provisions relating to the grounds and procedures for termination of the community manager;
- (k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:
- (1) A requirement that the community manager or his or her employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of \$1,000,000 or more;
- (2) An indication of which contracting party will maintain fidelity bond coverage; and
- (3) A statement as to whether the client will maintain directors and officers liability coverage for the executive board;

Any management agreement **must**:

- (l) Include provisions for dispute resolution;
- (m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;
- (n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;
- (o) State the frequency and extent of regular inspections of the common-interest community; and
- (p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

In addition to any other requirements under this section, a management agreement **may**:

- (a) Provide for mandatory binding arbitration; or
- (b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal pro

Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

- (a) The names and addresses of all insurance companies;
 - (b) The total amount of coverage; and
 - (c) The amount of any deductible.

After signing a management agreement, the community manager shall provide a copy of the management agreement agreement to each member of the executive board.

Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

STANDARDS OF PRACTICE NRS 116A.630

A community manager shall at all times:

Except as otherwise provided by specific statute, at all times:

- (a) Act as a fiduciary in any client relationship; and
- (b) Exercise ordinary and reasonable care in the performance of duties.
- 2. Comply with all applicable:
- (a) Federal, state and local laws, regulations and ordinances; and
- (b) Lawful provisions of the governing documents of each client.
- 3. Keep informed of new developments in the management of a commoninterest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.
- 4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.
- 5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

STANDARDS OF PRACTICE NRS 116A.630

A community manager shall at all times:

- 6. At all times ensure that:
- (a) The financial transactions of a client are current, accurate and properly documented; and
- (b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:
 - (1) Proper maintenance of accounting records;
- (2) Documentation of the authorization for any purchase orders, expenditures or disbursements;
 - (3) Verification of the integrity of the data used in business decisions;
 - (4) Facilitation of fraud detection and prevention; and
- (5) Compliance with all applicable laws and regulations governing financial records.

STANDARDS OF PRACTICE NRS 116A.630

- 7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.
- 8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.
- 9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.
- 10. Cooperate with the Division in resolving complaints filed with the Division.

STANDARDS OF PRACTICE NRS 116A.630

A community manager shall at all times:

- 11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.
- 12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.
- 13. Except as required under collection agreements, maintain the various funds of the client in separate financial accounts in the name of the client and ensure that the association is authorized to have direct access to those accounts.
- 14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.
- 15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.
- 16. Ensure that the executive board develops and approves written investment policies and procedures.

STANDARDS OF PRACTICE NRS 116A.630

A community manager shall at all times:

- 17. Recommend in writing to each client that the client register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.
- 18. Comply with the directions of a client, unless the directions conflict with the governing documents of the client or the applicable laws or regulations of this State.
- 19. Recommend in writing to each client that the client be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the client.
- 20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.
- 21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:
 - (a) That the executive board approve all write-offs of debt; and
 - (b) That the community manager provide timely updates and reports as necessary.

PROHIBITED ACTS NRS 116A.640

A community manager shall not:

- 1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.
 - 2. Impede or otherwise interfere with an investigation of the Division by:
 - (a) Failing to comply with a request of the Division to provide documents;
- (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of a client.
- 3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.
 - 4. Use money or other property of a client for his or her own personal use.
 - 5. Be a signer on a withdrawal from a reserve account of a client.

PROHIBITED ACTS NRS 116A.640

A community manager shall not:

- 6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.
- 7. Provide or attempt to provide to a client a service concerning a type of property or service:
- (a) That is outside the community manager's field of experience or competence without the assistance of a qualified authority unless the fact of his or her inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or
 - (b) For which the community manager is not properly licensed.
- 8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

PROHIBITED ACTS NRS 116A.640

A community manager shall not:

- 9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.
- 10. Collect any fees or other charges from a client not specified in the management agreement.
- 11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his or her normal duties unless:
- (a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and
- (b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

Wrap Up of Topics

COMMUNITY MANAGER-PURPOSE & BENEFITS

CERTIFICATE- NRS 116A.400

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STANDARDS OF PRACTICE AND PROHIBITED ACTS-NRS 116A.630, NRS 116A.640

Resources:

Signature images:

https://www.google.com/search?q=signature&rlz=1 C1OPRB_enUS6o9US6o9&espv=2&biw=1663&bih=8 67&source=lnms&tbm=isch&sa=X&ved=oahUKEwj Hzsbr4Y_OAhVQ6WMKHe2IDDUQ_AUIBigB